

FILED
JAMES BONINI
CLERK

United States District Court

PM 2:01

NORTHERN

DISTRICT OF

OHIO, EASTERN DIVISION

SOUTHERN & WEST OHIO

FEB 12 2013

UNITED STATES OF AMERICA

V.

WARRANT FOR ARREST

JAMES CLAYTON

CASE NUMBER: 1:07 CR 51 - 001

111MJ -399

To: The United States Marshal
and any Authorized United States Officer

2
YOU ARE HEREBY COMMANDED to arrest _____ JAMES CLAYTON

Name

and bring him or her forthwith to the nearest magistrate to answer a(n)

Indictment Information Complaint Order of court Violation Notice Probation Violation Petition

charging him or her with (brief description of offense) Failure to appear for a Violation Hearing.

In violation of Title _____ United States Code, Section(s) _____

DONALD C. NUGENT

Name of Issuing Officer

S/DCN

Signature of Issuing Officer

(By) Deputy Clerk

United States District Judge

Title of Issuing Officer

Cleveland, OH

Date and Location

Bail fixed at \$ _____

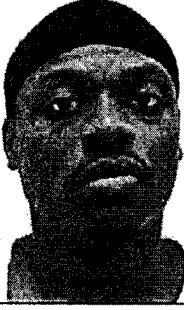
by Donald C. Nugent 12/7/11

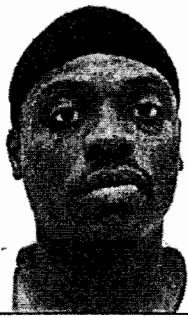
Name of Judicial Officer

RETURN

This warrant was received and executed with the arrest of the above-named defendant at _____

DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER
DATE OF ARREST		

DATE 11/22/2011	U. S. Pretrial Services and Probation Office Northern District of Ohio		SUPPLEMENTAL INFORMATION REPORT			
NAME CLAYTON, James			PACTS 47269		JUDGE Nugent	DOCKET # 1:07CR00051-001
SENTENCE DATE 09/25/2007	SUPERVISION TYPE TSR	CRIMINAL HIST. VI	GRADE OF VIOLATION C	PHOTO 		
ASST. U.S. ATTORNEY Duncan T. Brown 801 W. Superior Avenue Ste 400 Cleveland, OH 44113	DEFENSE ATTORNEY Kevin A. Spellacy 1300 Rockefeller Bldg 614 Superior Avenue, W Cleveland, OH 44113					
SENTENCE DISPOSITION 42 months custody of Bureau of Prisons to be followed by 3 years supervised release (commenced 06/10/2011).						
SPECIAL CONDITIONS Drug/Alcohol Aftercare. Mental Health Aftercare. Firearm Prohibition. DNA Collection (satisfied 07/28/2010).						
SUMMONS ISSUED 11/07/2011	HEARING DATE AND TIME 11/29/2011 @ 9:30 a.m.			ARREST DATE (IF APPLICABLE) N/A		
ADDITIONAL INFORMATION (SINCE VIOLATION REPORT) (ANY NEW CRIMINAL BEHAVIOR MIGHT AFFECT THE SENTENCING OPTIONS AS SPECIFIED IN THE PROBATION 12C VIOLATION REPORT. COMPLETED VIOLATION WORKSHEET IS ATTACHED)						
There is no new information.						
Pursuant to Local Rule 32.1.1, disclosure of Violation Report Probation 12C was distributed to U.S. Attorney and Defense Counsel.						
REVISED PROBATION OFFICER RECOMMENDATION						
<input checked="" type="checkbox"/> Recommendation remains unchanged. <input type="checkbox"/> New considerations/criminal behavior which may impact the recommendation. A superceding PROB 12C Violation Report is attached.						
U.S. PRETRIAL SERVICES & PROBATION OFFICER /s/ Mabel J. Harris 216.357.7320				DISTRIBUTION		
				COURT	CPO	
SUPERVISING U.S. PRETRIAL SERVICES & PROBATION OFFICER <i>Robin Lafferty</i> Robin Ann Lafferty 2011.11.22 17:07:10 -05'00'				PROBATION ROUTING		
				Data Entry	Data Collections	
Robin Lafferty, 419.213.5752						

DATE 11/04/2011	U. S. Pretrial Services and Probation Office Northern District of Ohio		VIOLATION REPORT Summons Request		
			PROB 12C (Rev. 10/99)		
NAME CLAYTON, James		PACTS 47269		JUDGE Nugent	DOCKET # 1:07CR00051-001
SENTENCE DATE 09/25/2007	SUPERVISION TYPE TSR	CRIMINAL HIST VI	OFFENSE LEV. 14	PHOTO 	
ASST. U.S. ATTORNEY Duncan T. Brown	DEFENSE ATTORNEY Kevin A. Spellacy				
REPORT PURPOSE JUDICIAL RESPONSE REQUESTED					
ORIGINAL OFFENSE Counts 1 and 2: 18 USC § 111(a)(1) - Assaulting, Resisting or Impeding Certain Officers, Class C felonies.					
SENTENCE DISPOSITION 42 months custody in the Bureau of Prisons to be followed by 3 years supervised release (commenced 06/10/2011).					
SPECIAL CONDITIONS Drug/Alcohol Aftercare. Mental Health Aftercare. Firearm Prohibition. DNA Collection (satisfied 07/28/2010).					
The probation officer believes that the offender has violated the following condition(s) of supervision:					
VIOLATION NUMBER/DATE		NATURE OF NONCOMPLIANCE			
1.		Illicit Drug Abuse: The offender provided a urine specimen on 08/31/2011 which was certified by Alere Laboratory on 09/10/2011 to be positive for marijuana.			
2.		Illicit Drug Abuse: The offender provided a urine specimen on 09/22/2011 which was certified by Alere Laboratory on 09/29/2011 to be positive for marijuana and cocaine.			
3.		Failure in Drug Aftercare Program: The offender was terminated from aftercare in October, 2011 for poor performance and progress.			
4.		Unauthorized Travel Out of District in September, 2011.			
ADJUSTMENT TO SUPERVISION					
<p>This report serves to inform the Court of ongoing problems in this case relative to substance abuse. The Court was advised in the violation report disclosed July 27, 2011 that relapse into substance abuse occurred June 15, 2011, almost immediately after release from custody on June 10, 2011. The offender used marijuana while celebrating his return to the community. It should also be noted the offender failed his pre-release placement at Oriana House Akron and was returned to custody until released to supervision. He was terminated from Oriana House for making alcohol at the facility. Mr. Clayton expresses to this officer his desire to be free from the constraints of supervision. He indicates plans to relocate elsewhere to pursue better employment opportunities (transfer is not an option due to aftercare non-compliance). He is not completely uncooperative. Mr. Clayton submits the monthly supervision reports as directed and maintains contact with the probation office. Despite the brevity of supervised release to date, it is clear the offender is not amenable to supervision efforts.</p> <p>Illicit Drug Use: The offender discussed the substance abuse with his previous officer. He admitted to the marijuana use but denied cocaine abuse.</p>					

DATE 11/04/2011	U. S. Pretrial Services and Probation Office Northern District of Ohio	VIOLATION REPORT Summons Request			PROB 12C <small>(Rev. 10/99)</small>
NAME CLAYTON, James		FACTS 47269	JUDGE Nugent	DOCKET # 1:07CR00051-001	
<p>Aftercare Program Failure: The probation office referred Mr. Clayton to Allied Behavioral Health Services in Lorain. The agency addresses both substance abuse and mental health issues in an integrated manner. Mr. Clayton has no clinical psychological disorder. He was placed in both individual and group counseling sessions. In July, 2011, the offender reported to treatment at a rate of only 20% (1 of 5 sessions scheduled). Performance in August, 2011 was at 40% (3 of 7 sessions). Compliance in September, 2011 was at 50% (4 of 8 sessions). In September, 2011 and again in October, 2011, Mr. Clayton advised both the service provider and the probation office he was no longer interested in treatment and would not return.</p> <p>Unauthorized Travel: On September 7, 2011, Mr. Clayton admitted to the previous USPO, Suzanne Wilkins, that he traveled to the Southern District of Ohio (Cincinnati) during the Labor Day holiday weekend to visit a girlfriend who lives and works there. During the unauthorized trip, Mr. Clayton was questioned by local detectives in connection with a robbery. The probation office has received no further information regarding the status of the investigation and charges.</p> <p>Employment: Mr. Clayton has struggled with employment during supervised release. He is not eligible for employment assistance through the Workforce Development Program of the US Probation Office because of the active drug abuse and poor performance in treatment. Mr. Clayton indicates he has better employment prospects if he relocates to Detroit.</p> <p>Residence: Mr. Clayton officially resides with his mother at 1505 West 19th Street, Lorain, OH 44052.</p> <p>Plan of Intervention: A Summons for a violation hearing is requested. Revocation will be sought.</p> <p>Pursuant to <i>U.S. v. Booker</i> and <i>U.S. v. Fanfan</i>, the following United States Sentencing Guideline applications are being provided to the Court solely for advisory purposes.</p> <p>SENTENCING OPTIONS</p> <p>Statutory Provisions: If the offender violates a condition of supervised release, the Court may extend the term of supervised release and may modify, reduce or enlarge the conditions, 18 U.S.C. § 3583(e)(2) or revoke the term of supervised release, 18 U.S.C. § 3583(e)(3), or place an offender under electronic monitoring (only as a special condition), 18 U.S.C. 18 § 3583(e)(4).</p> <p>If the Court finds that the offender has violated a condition of supervised release and decides to impose a term of imprisonment, it must consider, but can disregard, the policy statements in effect on the date the offender is sentenced, 18 U.S.C. § 3553(a)(4)(B) and impose a sentence of imprisonment up to the statutory maximum. The statutory maximum in this case is 2 years, as the offense of conviction is a Class C felony, 18 U.S.C. § 3583(e)(3).</p> <p>If the Court revokes supervised release and imposes a term of imprisonment that is less than the statutory maximum, it may pursuant to 18 U.S.C. § 3583(h), reimpose a term of supervised release. As the offense of conviction is a Class C felony, the term of supervised release shall not exceed 3 years, 18 U.S.C. § 3583(b)(2), less any term of imprisonment imposed upon revocation, 18 U.S.C. § 3583(h).</p> <p>Title 18 U.S.C. § 3583(d) allows an exception from mandatory revocation for an offender who fails a drug test, but the Court shall first consider whether the availability of appropriate substance abuse treatment programs, or the offender's current or past participation in such programs, warrants an exception.</p>					

DATE 11/04/2011	U. S. Pretrial Services and Probation Office Northern District of Ohio	VIOLATION REPORT Summons Request		
		PROB 12C (Rev. 10/99)		
NAME CLAYTON, James		PACTS 47269	JUDGE Nugent	DOCKET # 1:07CR00051-001
<p>Guidelines Provisions: Application of policy statements found in Chapter 7 of the Guideline Manual result in a revocation range of imprisonment of 8 to 14 months, U.S.S.G. § 7B1.4(a). The range of imprisonment is based on the most serious violation alleged being a Grade C violation, U.S.S.G. § 7B1.1(a)(3) and the offender having a Criminal History Category of VI, U.S.S.G. § 7B1.4, Application Note 1.</p> <p>If the Court revokes supervised release and imposes a term of imprisonment, it may reimpose supervised release for 3 years less any custody term imposed, U.S.S.G. § 7B1.3(g)(2). A Violation Worksheet is attached.</p> <p>Pursuant to U.S.S.G. § 7 B1.3(a)(2), upon a finding of a Grade C violation, the Court may revoke, extend or modify the conditions of supervised release. Guideline 7B1.3(c) provides sentencing options for offenders who fall into Zones B and C of the sentencing table. Those options include sentences of imprisonment that include terms of supervised release with conditions that substitute community confinement or home detention pursuant to Guideline 5C1.1(c) or (d).</p> <p style="text-align: center;">This completes the text of the report. Proceed to the signature page.</p>				

DATE 11/04/2011	U. S. Pretrial Services and Probation Office Northern District of Ohio	VIOLATION REPORT Summons Request			PROB 12C (Rev. 10/98)
NAME CLAYTON, James		FACTS 47269	JUDGE Nugent	DOCKET # 1:07CR00051-001	
I declare under penalty of perjury that the foregoing is true and correct. U.S. PRETRIAL SERVICES & PROBATION OFFICER /s/ Mabel J. Harris Mabel Harris, 216.357.7320			DISTRIBUTION COURT CPO		
SUPERVISING U.S. PRETRIAL SERVICES & PROBATION OFFICER <i>Robin Lafferty</i> Robin Ann Lafferty 2011.11.04 12:31:05 -04'00' Robin Lafferty, 419.213.5752			PROBATION ROUTING Data Entry Data Collection		
RECOMMENDING TO THE COURT					
<input type="checkbox"/> Supervision to be Continued <input type="checkbox"/> To issue a Warrant <input checked="" type="checkbox"/> To issue a Summons <input type="checkbox"/> Follow-up report to an Emergency Warrant issued on .					
THE COURT ORDERS:					
<input type="checkbox"/> The issuance of a Warrant. <input checked="" type="checkbox"/> The issuance of a Summons. <input type="checkbox"/> The request is denied. <input type="checkbox"/> Supervision to be Continued. <input type="checkbox"/> The referral of this case to the Magistrate Judge as designated by the Clerk's Office to conduct the appropriate proceedings, except for sentencing, if sentencing is necessary. If a revocation hearing is required, the assigned Magistrate Judge is to conduct the hearing and then file a report and recommendation. <input type="checkbox"/> Magistrate Judge Assigned _____ <input type="checkbox"/> Alternative Judicial Order (Please Specify)					
<u>/s/Donald C. Nugent, USDJ</u> Signature of Judicial Officer				<u>11/07/11</u> Date	

Baughman, Termed

**U.S. District Court
Northern District of Ohio (Cleveland)
CRIMINAL DOCKET FOR CASE #: 1:07-cr-00051-DCN-1**

Case title: United States of America v. Clayton

Date Filed: 01/30/2007

Date Terminated: 10/05/2007

Assigned to: Judge Donald C. Nugent

Defendant (1)

John Clayton

TERMINATED: 10/05/2007

represented by **Kevin M. Spellacy**

McGinty, Hilow & Spellacy

1300 Rockefeller Bldg.

614 Superior Avenue, W

Cleveland, OH 44113

216-344-9220

Fax: 216-664-6999

Email: kspell@mghslaw.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Designation: CJA Appointment

Pending Counts

18:111 (a)(1) Resisted and fought with
US Marshalls
(1-2)

18:111(a)(1) Forcibly assault, resist,
oppose, impede, intimidate and interfere
with US Marshals
(1s-2s)

Disposition

dismissed filing of superseding
indictment

Custody of the BOP for 42 months; 3
years supervised release and shall pay a
special assessment of \$200.00

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

Disposition

None

Plaintiff**United States of America**represented by **Duncan T. Brown**

Office of the U.S. Attorney - Cleveland
 Northern District of Ohio
 Ste. 400
 801 Superior Avenue, W
 Cleveland, OH 44113
 216-622-3933
 Fax: 216-685-2378
 Email: duncan.brown@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/30/2007	<u>1</u>	Indictment as to John Clayton (1) count(s) 1-2. (Attachments: # <u>1</u> Designation Form and Foreperson Signature Page) (R,Sh) (Entered: 01/30/2007)
01/30/2007		Random Assignment of Magistrate Judge pursuant to Local Criminal Rule 57.9. In the event of a referral, case will be assigned to Magistrate Judge Baughman. (R,Sh) (Entered: 01/30/2007)
04/11/2007	<u>3</u>	Superseding Indictment as to John Clayton (1) count(s) 1s-2s. (Attachments: # <u>1</u> Designation Form/Foreperson Signature Page) (S,R) (Entered: 04/11/2007)
05/08/2007		CJA 20 Appointment of Attorney Kevin A. Spellacy for John Clayton. Signed by Judge Donald C. Nugent (R,JM) (Entered: 05/08/2007)
05/08/2007		Notice (Non-document)to John Clayton scheduling an Arraignment set for 5/22/2007 at 09:30 AM in Courtroom 15A before Hon. Donald C. Nugent. (R,JM) (Entered: 05/08/2007)
05/08/2007	<u>6</u>	Application for Writ of Habeas Corpus ad Prosequendum as to John Clayton (Attachments: # <u>1</u> Writ# <u>2</u> Journal)(Brown, Duncan) (Entered: 05/08/2007)
05/09/2007	<u>7</u>	Marginal Order granting Petition For Writ of Habeas Corpus Ad Prosequendum as to John Clayton. Signed by Judge Donald C. Nugent (R,JM) (Entered: 05/09/2007)
05/09/2007	<u>8</u>	Journal Entry Order as to John Clayton directing the Sheriff, Lorain County Jail, to have defendant present for an Arraignment before Judge Donald C. Nugent on Tuesday, May 22, 2007 at 9:30 a.m. Signed by Judge Donald C. Nugent (R,JM) (Entered: 05/09/2007)
05/22/2007	<u>9</u>	Minutes of proceedings before Judge Donald C. Nugent ofArraignment as to John Clayton (1) Count 1-2,1s-2s held on 5/22/2007. The defendant entered a plea of not guilty. The defendant shall remain in pretrial detention. A trial order issued. (Court Reporter Heidi Geizer) (R,JM) (Entered: 05/22/2007)

05/22/2007	<u>10</u>	Criminal Trial Order as to James Clayton scheduling a Final Pretrial Conference set for 6/26/2007 09:00 AM before Hon. Donald C. Nugent. Jury Trial set for 7/2/2007 08:30 AM in Courtroom 15A before Hon. Donald C. Nugent. Pretrial Conference set for 6/5/2007 09:30 AM in Chambers 15A before Hon. Donald C. Nugent. (R,JM) Modified on 5/24/2007 (R, J). (Entered: 05/22/2007)
05/25/2007	<u>11</u>	Motion for Bill of Particulars by John Clayton. (Spellacy, Kevin) (Entered: 05/25/2007)
05/25/2007	<u>12</u>	Notice of Discovery <i>Request</i> as to John Clayton (Spellacy, Kevin) (Entered: 05/25/2007)
06/05/2007	<u>13</u>	Minutes of proceedings before Judge Donald C. Nugent. Pretrial Conference as to John Clayton held on 6/5/2007. Discovery on-going. Trial remains 7/2/07. (S,R) (Entered: 06/11/2007)
06/26/2007	<u>14</u>	FILING ERROR: Minutes of proceedings before Judge Donald C. Nugent. Pretrial Conference as to John Clayton held on 6/26/2007 Pretrial Conference continued and set for 7/19/2007 08:30 AM. (Court Reporter None) (E,P) Modified text, refiled as document number 15 6/29/2007 (E, P). (Entered: 06/27/2007)
06/27/2007	<u>15</u>	Minutes of proceedings before Judge Donald C. Nugent. Final Pretrial Conference as to John Clayton held on 6/27/2007. Case continued by agreement. Final Pretrial Conference set for 7/19/2007 08:30 AM before Hon. Donald C. Nugent. (Court Reporter None) (E,P) (Entered: 06/27/2007)
07/09/2007	<u>16</u>	Application for Writ of Habeas Corpus ad Prosequendum as to John Clayton (Attachments: # <u>1</u> Writ# <u>2</u> Journal)(Brown, Duncan) (Entered: 07/09/2007)
07/11/2007	<u>17</u>	Journal Entry Order as to John Clayton directing Sheriff, Lorain County Jail to have Defendant James Clayton brought to this Court for trial on July 19, 2007 at 8:30 a.m. before Judge Donald C. Nugent. Signed by Judge Donald C. Nugent (R,JM) (Entered: 07/11/2007)
07/11/2007	<u>18</u>	Writ of Habeas Corpus ad Prosequendum Returned Executed as to John Clayton for jury trial July 19, 2007 at 8:30 a.m. Judge Donald C. Nugent (R,JM) (Entered: 07/11/2007)
07/12/2007	<u>19</u>	Proposed Jury Instructions by United States of America as to John Clayton (Brown, Duncan) (Entered: 07/12/2007)
07/12/2007	<u>20</u>	Proposed Voir Dire by United States of America as to John Clayton (Brown, Duncan) (Entered: 07/12/2007)
07/20/2007	<u>21</u>	Minutes of proceedings before Judge Donald C. Nugent of Change of Plea Hearing as to John Clayton held on 7/20/2007 with referral to Probation for preparation of a Presentence Investigation Report., Plea entered by John Clayton (1) Guilty on Count 1 and 2. Sentencing scheduled for September 25, 2007 at 10:00 a.m. (Court Reporter Sue Trischan) (R,JM) (Entered: 07/20/2007)
07/20/2007	<u>22</u>	Plea Agreement as to John Clayton on Counts One and Two. (R,JM) (Entered:

		07/20/2007)
07/25/2007	<u>23</u>	Arrest Warrant Returned Executed on 5/21/07 as to James Clayton. (C,B) (Entered: 07/25/2007)
09/25/2007	<u>24</u>	Minutes of proceedings before Judge Donald C. Nugent of Sentencing held on 9/25/2007 for John Clayton (1), on Count(s) 1 and 2. The defendant is sentenced to the custody of the Bureau of Prisons for a term of forty-two months. The Court will recommend the 500 hour drug treatment program while in custody. Supervised release is ordered for a period of three years with the usual conditions as directed to include drug testing and treatment and any mental health treatment. Special assessment due in the amount of \$200.00. (Court Reporter Heidi Geizer) (R,JM) (Entered: 09/25/2007)
10/05/2007	<u>25</u>	Judgment as to John Clayton (1), Count(s) 1s-2s, The defendant is sentenced to the custody of the Bureau of Prisons for a term of forty-two months. The Court will recommend the 500 hour drug treatment program while in custody. Supervised release is ordered for a period of three years with the usual conditions as directed to include drug testing and treatment and any mental health treatment. Special assessment due in the amount of \$200.00 Signed by Judge Donald C. Nugent on 10/3/07. (C,B) Modified text on 10/5/2007 (C, Br). (Entered: 10/05/2007)
10/16/2007	<u>26</u>	Writ of Habeas Corpus ad Prosequendum Returned as to John Clayton. Writ completed, subject sentenced 9/25/07. (S,R) (Entered: 10/17/2007)
05/13/2008		CJA 20 as to John Clayton: Authorization to Pay Kevin Spellacy, Esq. Amount: \$ 1,974.00 Judge Donald C. Nugent (R,JM) (Entered: 05/13/2008)
11/07/2011	<u>27</u>	Order Regarding Violation Report as to John Clayton requesting a summons. Judge Donald C. Nugent on 11/07/11. (R,JM) (Entered: 11/07/2011)
11/07/2011		Notice (non-document) as to John Clayton of Violation Hearing scheduled to be held on 11/29/2011 at 09:30 AM in Courtroom 15A before Judge Donald C. Nugent. (R,JM) (Entered: 11/07/2011)

PACER Service Center			
Transaction Receipt			
12/13/2011 13:35:44			
PACER Login:	us5815	Client Code:	
Description:	Docket Report	Search Criteria:	1:07-cr-00051-DCN
Billable Pages:	3	Cost:	0.24